

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ROCK HILL DIVISION

Michael Fields,	)	Civil Action No.: 0:14-cv-3061-BHH
	)	
Plaintiff,	)	
	)	
v.	)	<b><u>OPINION AND ORDER</u></b>
	)	
Carolyn W. Colvin,	)	
Acting Commissioner of Social	)	
Security,	)	
	)	
Defendant.	)	
	)	

The plaintiff, Michael Fields (“the plaintiff”), brought this action pursuant to 42 U.S.C. § 405(g) to obtain judicial review of a final decision of the Defendant, Acting Commissioner of Social Security (“Commissioner”), denying his claim for Disability Insurance Benefits (“DIB”) under Title II of the Social Security Act. In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rules 73.02(B)(2)(a) and 83.VII.02, D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pretrial handling. On September 30, 2015, the magistrate judge issued a Report and Recommendation in which She determined that the Commissioner’s decision was based on substantial evidence and free of legal error. Accordingly, the magistrate judge recommended affirming the Commissioner’s decision. (ECF No. 21.) The plaintiff filed Objections on October 19, 2015 (ECF No. 22), and on October 28, 2015, the Commissioner filed a Reply (ECF No. 23). For the reasons stated below, the Court adopts the Report and Recommendation and affirms the Commissioner’s decision.

### **FACTUAL AND PROCEDURAL BACKGROUND**

The Report and Recommendation sets forth in detail the relevant facts and standards of law, and the Court incorporates them and summarizes below in relevant part. The plaintiff's benefits application was denied initially and on reconsideration. A hearing was held before an Administrative Law Judge ("ALJ") who issued an unfavorable decision on March 9, 2012, finding that the plaintiff was not disabled within the meaning of the Act. (R. at 98-112.) On May 5, 2013, the Appeals Council issued an order remanding the case back to the ALJ for another hearing which was held on September 5, 2013. (R. at 34-67.) On September 25, 2013, the ALJ again denied the plaintiff's claim. (R. at 15-33.) The Appeals Council denied the plaintiff's request for review (R. at 1-3), making the ALJ's decision the final decision of the Commissioner. The plaintiff subsequently filed an action in this Court on July 31, 2014. (ECF No. 1.)

### **REPORT AND RECOMMENDATION**

The magistrate judge recommends affirming the ALJ's decision. (ECF No. 21 at 10.) The magistrate judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the magistrate judge, or recommit the matter to her with instructions. 28 U.S.C. § 636(b)(1). "However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the

magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations." *Wallace v. Housing Auth. of the City of Columbia*, 791 F. Supp. 137, 138 (D.S.C. 1992) (internal citations omitted).

### **STANDARD OF REVIEW**

The role of the federal judiciary in the administrative scheme established by the Social Security Act is a limited one. Under 42 U.S.C. § 405(g), the court may only review whether the Commissioner's decision is supported by substantial evidence and whether the correct law was applied. See 42 U.S.C. § 405(g) ("The findings of the Commissioner of Social Security as to any fact, if supported by substantial evidence, shall be conclusive . . . ."); *Myers v. Califano*, 611 F.2d 980, 982 (4th Cir. 1980). "Substantial evidence has been defined innumerable times as more than a scintilla, but less than preponderance." *Thomas v. Celebrezze*, 331 F.2d 541, 543 (4th Cir. 1964); see, e.g., *Daniel v. Gardner*, 404 F.2d 889 (4th Cir. 1968); *Laws v. Celebrezze*, 368 F.2d 640 (4th Cir. 1966); *Tyler v. Weinberger*, 409 F. Supp. 776 (E.D. Va. 1976). In order for a reviewing court to determine whether the Commissioner based a decision on substantial evidence, "the decision must include the reasons for the determination . . . ." *Green v. Chater*, 64 F.3d 657, 1995 WL 478032, \*2 (4th Cir.1995) (citing *Cook v. Heckler*, 783 F.2d 1168, 1172 (4th Cir.1986)). The statutorily mandated standard precludes a *de novo* review of the factual circumstances that substitutes the Court's findings for those of the Commissioner. See, e.g., *Vitek v.*

*Finch*, 438 F.2d 1157 (4th Cir. 1971); *Hicks v. Gardner*, 393 F.2d 299 (4th Cir. 1968). Accordingly, “the court [must] uphold the [Commissioner’s] decision even should the court disagree with such decision as long as it is supported by ‘substantial evidence.’” *Blalock v. Richardson*, 483 F.2d 773, 775 (4th Cir. 1972). As noted by Judge Sobeloff in *Flack v. Cohen*, 413 F.2d 278 (4th Cir. 1969), “[f]rom this it does not follow, however, that the findings of the administrative agency are to be mechanically accepted. The statutorily granted right of review contemplates more than an uncritical rubber stamping of the administrative action.” *Id.* at 279. “[T]he courts must not abdicate their responsibility to give careful scrutiny to the whole record to assure that there is a sound foundation for the [Commissioner’s] findings, and that his conclusion is rational.” *Vitek*, 438 F.2d at 1157-58.

### **DISCUSSION**

The plaintiff filed objections to the Report and Recommendation<sup>1</sup> (“Objections”), on September 30, 2015 (ECF No. 21), and the Commissioner filed a reply on October 28, 2015 (ECF No. 23). The plaintiff summarily objects that the ALJ (1) overestimated the plaintiff’s functioning and selectively chose from the medical record in support; (2) failed to properly apply the treating physician’s rule; and (3) erred in according significant weight to the disability rating given by the Veterans Administration.

Very respectfully, these items are the precise matters raised to the magistrate judge and appropriately rejected. (See R&R at 6-9); *see also Hendrix v. Colvin*, 2013 WL 2407126, at \*4 (D.S.C. June 3, 2013); *Jackson v. Astrue*, 2011 WL 1883026 (W.D.N.C.

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<sup>1</sup> As always, the Court says only what is necessary to address such objections against the already meaningful backdrop of a thorough Report of the magistrate judge, incorporated entirely by specific reference, herein, to the degree not inconsistent. Exhaustive recitation of law and fact exists there.

May 17, 2011); *Aldrich v. Bock*, 327 F. Supp.2d 743, 747 (E.D. Mich. 2004). They have been reiterated on objection in the most general way, without citation to any specific portion of the record and without any suggestion as to how the magistrate judge erred in her consideration of the plaintiff's arguments. Accordingly, the district court must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 316 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 Advisory Committee's Note). There is none.

### **CONCLUSION**

The Court has carefully reviewed the record, including the findings of the ALJ, the plaintiff's objections to the Report and Recommendation, and the defendant's reply. The Court concurs in the recommendation of the magistrate judge and thus adopts the Report and Recommendation and incorporates it herein by reference to the extent it is consistent with this order. The decision of the Commissioner is AFFIRMED.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks  
United States District Judge

November 9, 2015  
Greenville, South Carolina